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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,738	10/30/2003	Ryan David Kallas	KALLAS	3293
45498	7590	10/04/2005	EXAMINER	
RISTO A. RINNE, JR. COMPLETE PATENTING SERVICES 2173 EAST FRANCISCO BOULEVARD, SUITE E SAN RAFAEL, CA 94901			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/698,738

Applicant(s)

KALLAS, RYAN DAVID

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,8 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-14,17,18 and 20 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is an office action for serial number 10/698,738, entitled Umbrella Holder, filed on October 30, 2003.

***Election/Restrictions***

Claims 2, 8, and 19 have withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 8, 2005.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 9-11, 13, 14, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Samuel, Jr. (Samuel) 5,749,386. Samuel discloses an umbrella holder comprising a shaft (12) having upper and lower end, means for attaching an umbrella comprising a cup assembly (figure 2, elements 15-17), segmented sections (13 and 14), means

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for retaining at least two segments (column 2, lines 12dff), means for inserting a portion of the lower end into the ground (26), a lever (28) adapted to be stepped on to urge the end into the ground, and inherently teaches the method for holding an umbrellas comprising providing an umbrella holder having a shaft with upper and lower end and means for attaching, and inserting a lower end into the ground.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samuel 5,749,386 in view of Voelkerding 3,285,554. Samuel discloses all of the limitation of the claimed invention except for the collar. Voelkerding teaches that it is known to have segments and a collar adapted to retain at least the two segments in linear alignment with each other when the collar is disposed over

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a seam intermediate said at least two segments (figure 2, element 30 and figure 8, element 98). It would have been obvious to one having ordinary skill in the art to have modified Samuel to have included the collar as taught by Voelkerding since Samuel discloses segmented sections for extending the length of the shaft and the addition of Voelkerding means for securing the segments in extended position would allow facilitate extension of the shaft.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samuel 5,749,386 in view of Garrette, Jr. (Garrette) 3,318,560. Samuel discloses all of the limitations of the claimed invention except for the pin. Garrette discloses it is known to have a means for retaining comprising a pin (46) in a first of segment with a hole to retain the segments in extended position (figure 6). It would have been obvious to one having ordinary skill in the art to have modified Samuel to have included the means for retaining as taught by Garrette for the purpose of providing a more secure means of extending the telescoping sections and to facilitate extension of the segments in and out of the locked position.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samuel 5,749,386 in view of Brown

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5,749,386. Samuel discloses all of the limitations of the claimed invention except for the ring. Brown teaches that it is known to have a pivoting lever attached to a ring adapted to surround the shaft (12 and 21). It would have been obvious to one having ordinary skill in the art at to have modified Samuel to have included the ring to the shaft having the pivoting lever as taught by Brown for the purpose of providing a more secure means for inserting the shaft into the ground.

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samuel in view of Churillo

6,199,819. Samuel discloses all of the limitations of the claimed invention except for the means for supporting being a clip. Churillo teaches that it is known to have a clip (Figure 2). It would have been obvious to one having ordinary skill in the art to have modified Samuel to have included the clip as taught by Churillo for the purpose of easily attaching the shaft to an object without the need to modify the object.

***Allowable Subject Matter***

Claims 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd

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paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

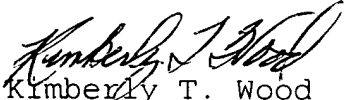
The prior art discloses conventional umbrella holders and telescoping shafts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kimberly T. Wood  
Primary Examiner  
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September 29, 2005